

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NEAL LEPOVETSKY,

Plaintiff,

v.

DAVID FRANZ, et al.,

Defendants.

Civil Action No. 05-359 Erie

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on December 7, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 52], filed on May 30, 2008, recommended that the motion for partial summary judgment filed by Defendants [Doc. No. 42] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Objections were filed by Plaintiff's on June 6, 2008 [Doc. No. 53]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 19<sup>th</sup> day of June, 2008;

IT IS HEREBY ORDERED that the partial motion for summary judgment filed by Defendants [Doc. No. 42] is GRANTED.

The Report and Recommendation [Doc. No. 52] of Magistrate Judge Baxter, filed on May 30, 2008, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge